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|-------------------------------|------------------------|---------------------|--|
| Notice of Allowability | Application No. | Applicant(s) | |
| | 09/747,535 | LE ET AL. | |
| | Examiner | Art Unit | |
| | Naeem Haq | 3625 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 8/23/2006.
2. ☒ The allowed claim(s) is/are 1, 5 and 9.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS ("replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
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| <ol style="list-style-type: none"> 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____ 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | <ol style="list-style-type: none"> 5. <input type="checkbox"/> Notice of Informal Patent Application 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413), Paper No./Mail Date <u>11/12/2006</u>. 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance 9. <input type="checkbox"/> Other _____ |
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 Naeem Haq, Primary

DETAILED ACTION

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Attorney Francis Lammes on November 10, 2006.

This listing of claims will replace all prior versions, and listings, of claims in the application as follows:

1. (Amended) A method in an electronic auction for generating off-increment proxy bids, said method comprising the computer implemented steps of:

specifying a minimum increment for bidding on an item;

receiving a bid for said item from a first bidder that is a current high bid for said item;

identifying a previously recorded proxy bid from a second bidder that is greater than said current high bid but not greater than said current high bid plus said minimum increment; and

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generating by said electronic auction an off-increment bid that becomes a new high bid for said item utilizing said proxy bid, wherein said second bidder holds the new high bid for said item, further wherein said off-increment bid does not exceed said bid received from said first bidder by said minimum increment, and wherein said off-increment bid does not exceed said proxy bid;

generating a proposed bid by said electronic auction, said proposed bid being equal to said minimum increment plus a current high bid for said item;

determining if said proposed bid exceeds said proxy bid; and

in response to a determination that said proposed bid does exceed said proxy bid, awarding said item to said second bidder for said off-increment bid, wherein said off-increment bid is equal to said proxy bid.

2. (Cancelled)

3. (Cancelled)

4. (Cancelled)

5. (Amended) An electronic auction system for generating off-increment proxy bids, comprising:

a bus system;

a communications system connected to the bus system;

a memory connected to the bus system, wherein the memory includes a set of instructions; and

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a processing unit connected to the bus system, wherein the processing unit executes the set of instructions to identify a minimum increment for bidding on an item; receive a bid received for said item from a first bidder that is a current high bid for said item; identify a previously recorded proxy bid from a second bidder that is greater than said current high bid but not greater than said current high bid plus said minimum increment; generate an off-increment bid by said electronic auction that becomes a new high bid for said item utilizing said proxy bid, wherein said second bidder holds the new high bid for said item, further wherein said off-increment bid does not exceed said bid received from said first bidder by said minimum increment, and wherein said off-increment bid does not exceed said proxy bid; generate a proposed bid, said proposed bid being equal to said minimum increment plus a current high bid for said item; determine if said proposed bid exceeds said proxy bid; and, in response to a determination that said proposed bid does exceed said proxy bid, award said item to said second bidder for said off-increment bid, wherein said off-increment bid is equal to said proxy bid.

6. (Cancelled)

7. (Cancelled)

8. (Cancelled)

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9. (Amended) A computer readable medium in an electronic auction including computer usable program code for generating off-increment proxy bids, said computer usable program code comprising:

instruction means for specifying a minimum increment for bidding on an item;

instruction means for receiving a bid for said item from a first bidder that is a current high bid for said item;

instruction means for identifying a previously recorded proxy bid from a second bidder that is greater than said current high bid but not greater than said current high bid plus said minimum increment; and

instruction means for generating an off-increment bid that becomes a new high bid for said item utilizing said proxy bid, wherein said second bidder holds the new high bid for said item, further wherein said off-increment bid does not exceed said bid received from said first bidder by said minimum increment, and wherein said off-increment bid does not exceed said proxy bid;

instruction means for generating a proposed bid, said proposed bid being equal to said minimum increment plus a current high bid for said item;

instruction means for determining if said proposed bid exceeds said proxy bid; and

instruction means for in response to a determination that said proposed bid does exceed said proxy bid, awarding said item to said second bidder for said off increment bid, wherein said off-increment bid is equal to said proxy bid.

10. (Cancelled)

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11. (Cancelled)

12. (Cancelled)

13. (Cancelled)

14. (Cancelled)

15. (Cancelled)

16. (Cancelled)

Allowable Subject Matter

Claims 1, 5, and 9 are allowed.

The following is a statement of reasons for the indication of allowable subject matter: Statement of allowance is in reference to independent claims 1, 5, and 9.

The present application is directed to an electronic auction system, method, and computer program for generating off-increment bids by specifying a minimum increment; receiving a bid from a first user; identifying a previously recorded proxy bid from a second user; and generating the off-increment bid based on the minimum increment, proxy bid, and a proposed bid. Independent claims 1, 5, and 9 recite the uniquely patentable feature of generating the off-increment bid by generating a proposed bid that is equal to the minimum increment plus current high bid and determining whether the proposed bid exceeds the proxy bid from the second user.

Discussion of the most relevant prior art:

The following references have been identified as the most relevant prior art to the claimed invention.

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(i) US 6,243,691 B1 to Fisher et al. Fisher discloses an electronic auction system, method, and computer program that specifies a minimum increment; receives a bid from a first user; and receives a proxy bid from a second user. However, Fisher fails to teach or suggest the limitation of generating an off-increment bid by generating a proposed bid that is equal to the minimum increment plus current high bid and determining whether the proposed bid exceeds the proxy bid from the second user. Fisher instead teaches adjusting the price of the item based on market conditions (col. 12, lines 1-17). The examiner notes that an adjusted price of an item based on market conditions is not the same as an off-increment bid as defined in the Applicants' specification (see page 3, lines 2-4).

(ii) EP 1 041 502 A2 to Phone.com ("Phone"). Phone is generally directed to the field of online auctions with proxy bidding. However, Phone fails to teach or suggest the limitation of generating an off-increment bid by generating a proposed bid that is equal to the minimum increment plus current high bid and determining whether the proposed bid exceeds the proxy bid from the second user.

(iii) Dialog File 16: "Click Once, Click Twice, Sold! Online auction sites let you bid your way to a bargain PC." by Kevin Savetz ("Savetz"). Savetz is generally directed to the field of online auctions with proxy bidding. However, Savetz fails to teach or suggest the limitation of generating an off-increment bid by generating a proposed bid that is equal to the minimum increment plus current high bid and determining whether the proposed bid exceeds the proxy bid from the second user.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naeem Haq whose telephone number is (571)-272-6758. The examiner can normally be reached on M-F 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on (571)-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Naeem Haq, Primary Examiner
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November 12, 2006